



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:  
SHI-QING WANG, ET AL

Docket: 30-4687 (4780)

Serial Number: 09/328,646

Group Art Unit: 2811

Filed: June 9, 1999

Examiner: H. Vu

For: INTEGRATED CIRCUITS WITH MULTIPLE LOW DIELECTRIC-CONSTANT  
INTER- METAL DIELECTRICS

#10  
6-2-01  
Payton

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The Examiner has subjected this application to an Election of Species under 35 USC 221.

The Examiner has alleged that there are two (2) patentably distinct species of the claimed invention:

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Embodiment 1, wherein an inorganic layer is on a substrate and an organic layer is on the inorganic layer.

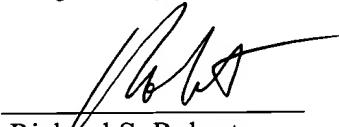
Embodiment 2, wherein an organic layer is on a substrate and an inorganic layer is on the organic layer.

Applicant hereby provisionally elects Embodiment 2. The claims which read on this embodiment are 7-8, 11-12, 15-16, 19-20 and 23-31. The Examiner is advised that the applicant makes this election with traverse. It should be noted that the Commissioner may statutorily require the Election of Species if two (2) or independent and distinct inventions are in one (1) application. In this case, the Examiner is alleging that the inventions of Embodiment 1 and Embodiment 2 are patentably distinct, although absolutely no showing of such distinctness has been made. The Examiner's attention is drawn to 37 CFR 141(b), where allegedly different classes of inventions may be included

and examined in a single application providing they are so linked as to form a single inventive concept. The Examiner's attention is respectfully drawn to a co-pending divisional application for this invention embodying the non-elected claims. The Examiner is advised that Serial Number 09/718,787 has already been allowed and included claims corresponding to both Embodiment 1 and Embodiment 2. No Election of Species requirement was asserted in this corresponding case. It is submitted that the requirement to elect Embodiment 1 or Embodiment 2 would place an unnecessary burden upon the applicants and the Examiner's failure to follow the mandates of the statute and regulation would be a denial of due process.

Enclosed with this response is an updated Information Disclosure Statement, including Form PTO 1449 identifying the references cited in the corresponding application. Consideration thereof is requested.

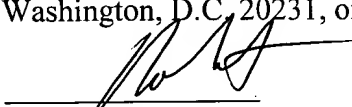
Respectfully submitted,

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Date: May 17, 2001

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage pre-paid in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231, on May 17, 2001.

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Richard S. Roberts  
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